

**REMARKS**

Claims 1-32 were presented for examination. The non-final Office Action dated July 26, 2007 rejects claims 1-32. This paper amends claim 1, 10, 18, and 23, and cancels claims 26-32. Claims 1-25 remain pending in the application.

**Claim Rejection Under 35 USC §101**

The Office Action rejects claims 23-32 under 35 USC §101 because the claimed invention is directed to non-statutory subject matter. Applicant has canceled claims 26-32. In view of their cancellation, applicant submits that the rejection against these claims is moot. Notwithstanding the cancellation, applicant does not concede the validity of the rejection, and expressly reserves the right to pursue these claims and other claims in a continuation and/or divisional patent application.

With respect to claims 23-25, applicant respectfully traverses this rejection because the computer program product includes computer useable medium having embodied therein program code. According to the PTO Guidelines for Computer-Related Inventions, when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases. In addition, "functional descriptive material" consists of computer programs which impart functionality when employed as a computer component. Applicant submits that the program code set forth in claims 23-25, such as generating and transmitting a body-less electronic mail message over a network, constitute functional descriptive material because such program code imparts functionality to the computer system. In view of the foregoing, applicant respectfully requests that the rejection of claims 23-25 be withdrawn.

**Claim Rejection Under 35 USC §102**

The Office Action rejects claims 1, 10, 18, 19, 23, 24, 28, and 29 under 35 USC §102(e) as being anticipated by Kalfas (U.S. Publication No. 2004/0199598). Applicant respectfully traverses the rejection to the extent it is maintained against the claims as amended.

The applicant's invention, as now set forth in representative claim 1, recites a method of communicating with a user of a processor-based device over a network. A body-less electronic mail message is provided. The body-less electronic mail message has a subject line and lacks a message body capable of receiving message content. A text message is received into the subject line of the body-less electronic mail message, and the body-less electronic mail message is transmitted to the user over the network.

Applicant has amended claim 1 to distinguish more clearly the applicant's claimed body-less email message from an email message having a body that is empty of message content. More specifically, as now claimed, the applicant's body-less email message *lacks a message body that is capable of receiving message content*. Support for the amendment can be found generally throughout the figures and description and, particularly, in FIG. 2 and on paragraph [0016].

The cited reference, Kalfas, discloses an email message that can optionally have message content in the body of the email message (FIG. 4). Because message content is optional, this implies that an email message can have a body without any message content. The Office Action considers such an email message to be a body-less email message. However, this is not the meaning of *body-less* as set forth in the applicant's claimed invention. Rather, in the applicant's invention, the email message lacks a message body that is

capable of receiving a message – it is not merely that the message body is empty of content, but that the body does not even exist. In contrast, Kalfas does have a body field (please see reference numerals 54, 164, and 212 in FIG. 2, FIG. 4, and FIG. 5, respectively, and paragraphs [0042] and [0044]). Although this body field can be empty, it is available and capable of receiving message content. Therefore, unlike the applicant's claimed body-less email message, Kalfas's email message does not *lack a message body capable of receiving message content*. Moreover, although Kalfas's body field can be empty, Kalfas does not suggest eliminating the body field altogether. Therefore, Kalfas cannot anticipate or suggest the applicant's invention, which, as now amended, includes a body-less email message that lacks a message body capable of receiving message content. Applicant respectfully requests withdrawal of the rejection.

Independent claims 10, 18, and 23 recite language similar to that of allowable independent claim 1, and, therefore, are allowable for at least those reasons provided for claim 1. Each pending dependent claim depends directly or indirectly from one of the patentable independent claims, and incorporates all of its respective limitations and, therefore, is patentably distinguishable for at least those reasons provided in connection with the independent claims.

#### **Claim Rejection Under 35 USC §103**

The Office Action rejects claims 2, 6, and 11 under 35 USC §103(a) as being unpatentable over Kalfas, in view of obviousness. Claim 3 is rejected as being unpatentable over Kalfas in view of Szeto (US Publication No. 2004/0215721) and Rukman (US Publication No. 2004/0185883); claims 4 and 12 over Kalfas in view of Whittle (US Publication No. 2005/0050462); claims 5, 13, 20, 25, and 30 over Kalfas in view of Lenoir (US Patent No.

7,231,082); and claims 7-9, 14-17, 21, 22, 31, and 32 over Kalfas in view of Szeto.

Each of these rejected claims is a dependent claim that depends directly or indirectly from one of the patentable independent claims, and incorporates all of its respective limitations and, therefore, is patentably distinguishable for at least those reasons provided in connection with the independent claims.

In addition, none of these cited references discloses or suggests a body-less email message that lacks a message body capable of receiving message content, as now set forth in the applicant's claimed invention. In brief, Szeto discloses an email message with a body (314) having message content and, thus, must have a message body capable of receiving message content. Rukman discloses SMS and MMS messaging that can be used for email messaging. Each SMS and MMS message, however, includes message text (see FIG. 3), indicative of a message body capable of receiving message content. The email messages disclosed in Whittle have a body field (377, FIG. 3K) capable of receiving message text. Lenoir does not pertain to email messages and, therefore, does not disclose a body-less email message lacking a body-field capable of receiving message content. Hence, the cited references, whether taken alone or in combination, fail to disclose or suggest a body-less email message lacking a message body capable of receiving message content, as now set forth in the applicant's claimed invention. Therefore, applicant respectfully requests withdrawal of the rejection under 35 USC §103(a).

### **CONCLUSION**

In view of the amendments and arguments made herein, applicant submits that the application is in condition for allowance and requests early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the applicant's representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-0932.

Respectfully submitted,

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